

**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF THE REQUEST )	
FOR REVIEW BY: )	CHARGE NO.: 2009CF1717
MANUEL A. AMARO )	EEOC NO.: N/A
)	ALS NO.: 10-0006
Petitioner. )	

**ORDER**

This matter coming before the Commission by a panel of three, Commissioners Munir Muhammad, Diane M. Viverito, and Nabi Fakroddin, upon Manuel A. Amaro's ("Petitioner") Request for Review ("Request") of the Notice of Dismissal issued by the Department of Human Rights ("Respondent")<sup>1</sup> of Charge No. 2009CF1717; and the Commission having reviewed all pleadings filed in accordance with 56 Ill. Admin. Code, Ch. XI, Subpt. D, § 5300.400, and the Commission being fully advised upon the premises;

NOW, WHEREFORE, it is hereby **ORDERED** that the Respondent's dismissal of the Petitioner's charge is **SUSTAINED** on the following ground:

**LACK OF SUBSTANTIAL EVIDENCE**

In support of which determination the Commission states the following findings of fact and reasons:

1. On December 5, 2008, the Petitioner filed a charge of discrimination with the Respondent. The Petitioner alleged in his charge that United Steel, Paper and Forestry, Rubber Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC ("Union"), failed to represent him because of his ancestry, Hispanic (Count A), his mental disability, Adjustment Disorder (Count B), and his physical disability, Hypertension (Count C), in violation of Section 2-102(C) of the Illinois Human Rights Act ("Act"). On December 2, 2009, the Respondent dismissed the Petitioner's charge for Lack of Substantial Evidence. On January 4, 2010, the Petitioner filed this timely Request.
2. The Petitioner was a member of the Union and was employed as a Mold Maker for Gerresheimer Glass, Inc. ("Employer"). The Petitioner alleged that on September 23, 2008, the Employer discharged him because of his ancestry and for opposing unlawful discrimination.
3. The Union stated that it attempted to negotiate with the Employer for the Petitioner's return to work. On December 22, 2008, the Union sent the Petitioner a letter which stated that the

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<sup>1</sup> In a Request for Review Proceeding, the Illinois Department of Human Rights is the "Respondent." The party to the underlying charge requesting review of the Department's action shall be referred to as the "Petitioner."

Employer would allow the Petitioner to return to work if the Petitioner provided documentation showing that his disabilities had prevented him from working. The Petitioner never responded to the Union's letter.

4. Further, the Union states the Petitioner never asked it to file a written grievance on his behalf.
5. In his charge, the Petitioner alleged that on September 23, 2008, the Union failed to file a grievance against the Employer because of the Petitioner's ancestry and his physical and mental disabilities.
6. In his Request, the Petitioner states the Union discriminated against him because he was not allowed to submit grievances. The Petitioner discusses other discriminatory acts that were not alleged in his charge, and which pertained to his employer-employee relationship, and not his relationship with the Union.
7. In its Response, the Respondent asks the Commission to sustain its dismissal of the Petitioner's charge for Lack of Substantial Evidence because the Respondent found no evidence the Petitioner had ever asked the Union to file a written grievance on his behalf. Further, the Respondent determined that the Union had negotiated with the Employer on the Petitioner's behalf, and as a result the Employer offered to reinstate the Petitioner. However, the Petitioner declined the offer.

## **CONCLUSION**

The Commission concludes that the Respondent properly dismissed the Petitioner's charge for lack of substantial evidence. If no substantial evidence of discrimination exists after the Respondent's investigation of a charge, the charge must be dismissed. See 775 ILCS 5/7A-102(D) (West 2010). Substantial evidence exists when the evidence is such that a reasonable mind would find the evidence sufficient to support a conclusion. See In re Request for Review of John L. Schroeder, IHRC, Charge No. 1993CA2747, 1995 WL 793258, \*2 (March 7, 1995).

There is no substantial evidence the Union failed to represent the Petitioner because of his ancestry or disabilities. To the contrary, the Union negotiated with the Employer on the Petitioner's behalf, and as a result obtained an offer from the Employer to allow the Petitioner to return to work. The Petitioner declined this offer.

Further, there was no evidence the Petitioner requested the Union file a written grievance on his behalf. As such, there is no substantial evidence the Union failed to represent the Petitioner.

Accordingly, it is the Commission's decision that the Petitioner has not presented any evidence to show that the Respondent's dismissal of his charge was not in accordance with the Act. The Petitioner's Request is not persuasive.

**THEREFORE, IT IS HEREBY ORDERED THAT:**

The dismissal of the Petitioner's charge is hereby **SUSTAINED**.

This is a final Order. A final Order may be appealed to the Appellate Court by filing a petition for review, naming the Illinois Human Rights Commission, the Illinois Department of Human Rights, and United Steel, Paper and Forestry, Rubber Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO, CLC, as Respondents with the Clerk of the Appellate Court within 35 days after the date of service of this Order.

<b>STATE OF ILLINOIS</b>	)	
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<b>HUMAN RIGHTS COMMISSION</b>	)	<b>Entered this 14<sup>th</sup> day of July 2010.</b>

Commissioner Munir Muhammad

Commissioner Diane M. Viverito

Commissioner Nabi Fakroddin